

Attachment Five

THE SPECIAL COMMITTEE FOR
THE FIFTH CIRCUIT JUDICIAL COUNCIL

IN RE: DOCKET NUMBER
COMPLAINT OF JUDICIAL 07-05-351-0085
MISCONDUCT AGAINST
UNITED STATES DISTRICT JUDGE NEW ORLEANS, LOUISIANA
G. THOMAS PORTEOUS, JR., OCTOBER 29, 2007
EASTERN DISTRICT OF LOUISIANA. 10:00 A.M
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TRANSCRIPT OF PROCEEDINGS HAD BEFORE
EDITH H. JONES, CHIEF JUDGE, US COURT OF APPEALS, FIFTH CIRCUIT;
FORTUNATO BENAVIDES, US CIRCUIT JUDGE;
AND SIM LAKE, US DISTRICT JUDGE

VOLUME 1 OF 2

A P P E A R A N C E S:

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Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 A P P E A R A N C E S: (Continued)

2 ALSO APPEARING:

3 Patrick Fanning for Joseph M. Mole
4 Ralph Capitelli for Robert Creely and Jacob Amato
5 Jerome Winsberg for Claude Lightfoot, Jr.

6 OFFICIAL COURT REPORTER:

7 Cheryll K. Barron, CSR, CM, FCRR
8 U.S. District Court
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13 ALSO PRESENT:

14 Pam Wood
15 Jerry Fink
16 Peter Ainsworth
17 Dan Petalas
18 Wayne Horner
19 Julie Mandelsohn

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Cheryll K. Barron, CSR, CM, FCRR

713.250.5585

11:41

1 Q. And the current value of that interest is \$100, correct?

2 A. Yes, sir.

3 Q. And that's on Page 95?

4 A. Bates Page 95.

11:41

5 Q. Bates Page 95. Bates Page 96, Schedule B, Question 17,

6 "Other liquidated debts -- other liquidated debts owing debtor,

7 including tax refunds, give particulars." And in the next box,

8 it's checked off "none," correct?

9 A. Yes, sir.

11:42

10 Q. Attached to this exhibit, starting on Bates Page 112, the

11 statement of financial affairs, are you familiar with that,

12 sir?

13 A. Yes, sir.

14 Q. And on the last page of that statement of financial

11:42

15 affairs, with Bates Number SC116?

16 A. Right.

17 Q. "I declare under penalty of perjury that I have read the

18 answers contained in the foregoing statement of financial

19 affairs and any attachments thereto and they are true and

11:42

20 correct," dated April 9th, '01, the date of the amended

21 petition, signed by you and your wife, correct?

22 A. Yes, sir.

23 Q. So, you would agree with me, Judge Porteous, this is a

24 document that had a jurat that required that it be signed --

11:43

25 well, that it be signed under penalty of perjury, correct?

11:43

1 A. Yes, sir. You just read that.

2 Q. Right. There was another one. This -- that had to do with
3 statement of financial affairs.

11:43

4 On Page 111, "Declaration concerning debtors'
5 schedules," just about the schedules. Now, "Declaration under
6 penalty of perjury by individual debtor," it states, "I declare
7 under penalty of perjury that I have read the foregoing summary
8 and schedules consisting of 16 sheets plus the line summary
9 page and that they are true and correct to the best of my
10 knowledge, information, and belief," dated April 9th, '01,
11 signed by you and your wife, correct?

11:43

12 A. Right.

11:44

13 Q. Isn't it true, Judge Porteous, that although you replied
14 "none" to "tax returns," that you and your wife filed for a
15 federal tax refund on March 23rd, 2001, in the amount of
16 \$4,143.72, which was just five days before your original
17 Chapter 13 petition was filed? Do you recall that?

18 A. I know we filed for a tax refund.

19 Q. All right. Let me show it to you.

11:44

20 Exhibit 24, do you recognize this as being your
21 1040 return?

22 A. Yes, sir.

23 Q. For tax year -- for 2000 --

24 A. 2000.

11:44

25 Q. -- correct?

11:44 1 And this is Bates Page 600?

2 A. Right.

3 Q. This is going to be tough to read, but feel free to look at

4 your copy.

11:45 5 Under the section "Refund," which is sort of cut

6 off on my copy, Line 67a, "Amount of Line 66 you want refunded

7 to you, \$4,143.72" --

8 A. Yes, sir.

9 Q. -- correct?

11:45 10 It's signed, again under penalty of perjury, by

11 you and your wife on March 23rd, 2001, correct?

12 A. Yes, sir.

13 Q. And has your occupation as judge and your wife -- your

14 wife's occupation as housewife?

11:45 15 A. Right.

16 Q. And this is on Page 601, correct, Bates page?

17 A. Yes, sir.

18 Q. March 23rd, 2001, less than a week before you filed

19 Chapter 13, correct?

11:45 20 A. Yes, sir.

21 Q. And on your schedule, you put that you had no refund?

22 A. When that was listed, you're right.

23 Q. Okay. From your Exhibit 25, from your Bank One bank

24 account, Judge G. Thomas Porteous, Jr., Account 6902379554 --

11:46 25 actually, that number is a little bit different than the one

11:46

1 that was on the schedule. Maybe there was a typo.

2 If you look on Schedule B that we've read before,
3 this account starts with 002379554, but the actual statement
4 has a different few numbers that start. Probably just a typo,
5 don't you think?

11:46

6 A. I know there's bottom numbers on those checks. I always
7 called that account, I think, 00.

8 Q. All right. Now, going back to this Exhibit 25 --

9 A. Uh-huh.

11:47

10 Q. And I regret that I can't get this clearer; but it shows on
11 April 13th, a deposit of an IRS tax refund of \$4,143.72,
12 correct?

13 A. Yes, sir.

14 Q. And that deposit was April 13th?

11:47

15 A. Yes, sir.

16 Q. Just four days after your amended return was filed,
17 correct?

18 A. Yes, sir.

19 Q. Your amended return was April 9th?

11:47

20 A. Yes, April 9th.

21 Q. But nothing was mentioned on that return?

22 A. No. I know I called my -- I called Claude when I got it.
23 And by Claude, I meant Mr. Lightfoot. I'm sorry.

24 Q. You discussed that with Mr. Lightfoot?

11:47

25 A. I did.

11:48

1 Q. Did he tell you not to put it on the return?

2 A. No, no. I discussed that I received the refund, what
3 should I do with it.

4 Q. What did Mr. Lightfoot tell you?

11:48

5 A. Said, "If the trustee didn't put a lien on it, put it in
6 your account; but they may -- they may ask for it back."

7 Q. But, Judge Porteous, that schedule was signed under penalty
8 of perjury.

11:48

9 A. It was omitted. I don't know how it got omitted. There
10 was no intentional act to try and defraud somebody. It just
11 got omitted. I don't know why.

12 We had been fighting this, trying not to go into
13 bankruptcy for a long time. And I don't know. It just didn't
14 appear on the schedule.

11:48

15 Q. Okay.

16 JUDGE BENAVIDES: How many days before the schedule
17 was made that omitted that was the request for refund made of
18 the filing?

11:49

19 MR. FINDER: About five days, five days from the
20 original petition, your Honor. The schedule was on the amended
21 petition and --

22 JUDGE BENAVIDES: Well, I'm trying to get the
23 difference in date between the date he signs the statement
24 saying he has no refund coming --

11:49

25 MR. FINDER: Right.

01:41

1 Amato or Creely, cash gifts, in any of these financial
2 disclosures?

3 A. No.

4 Q. But you certified every one as being true and correct?

01:41

5 A. Correct.

6 Q. And there was an omission, then, correct?

7 A. Not that I'm aware of.

8 Q. Well, if someone gave you money during those years and it
9 was more than \$250, wouldn't that be reportable?

01:41

10 A. I do not recall receiving any cash from them during that --

11 Q. Do you recall in 1999, in the summer, May, June, receiving
12 \$2,000 for them?

13 A. I've read Mr. Amato's grand jury testimony. It says we
14 were fishing and I made some representation that I was having
15 difficulties and that they loaned me some money or gave me some
16 money.

01:42

17 Q. You don't -- you're not denying it; you just don't remember
18 it?

19 A. I just don't have any recollection of it, but that would
20 have fallen in the category of a loan from a friend. That's
21 all.

01:42

22 Q. Has the loan ever been paid back --

23 A. No.

24 Q. -- if you got it?

01:42

25 A. No.